

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

(ECF)

JULIA R. COHEN, : 05 Civ. 6780 (KMK) (JCF)

Plaintiff, : O R D E R

- against - :

THE CITY OF NEW YORK, a municipal :
entity, NEW YORK CITY POLICE :
OFFICERS STEVEN CHOINSKI, Shield :
28673, and "JOHN DOES" and "SALLY" :
ROWES," individually and in their :
official capacities, JOSEPH :
ESPOSITO, individually and in his :
official capacity as Chief of the :
New York City Police Department, :
RAYMOND KELLY, individually and in :
his capacity as New York City :
Police Commissioner, BRUCE SMOLKA, :
individually and in his official :
capacity as an Assistant Chief in :
the New York City Police Department :
and in Patrol Borough Manhattan :
South, :

Defendants. :

JAMES C. FRANCIS IV
UNITED STATES MAGISTRATE JUDGE

Defendants having moved to dismiss the complaint for failure of plaintiff to provide information requested in discovery, or, in the alternative, to dismiss plaintiff's claims based on physical and emotional injuries while compelling production of discovery responses relevant to her other claims, it is hereby ORDERED as follows:

1. Plaintiff has declined to produce her "couple's counseling" records or to provide them for in camera review for a determination of their relevance to her claims of mental and emotional distress. This issue has been fully litigated and

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decided in the following related cases: MacNamara, 04 Civ. 1926 (Ruling dated Aug. 29, 2005); Hershey-Wilson, 05 Civ 7026 (Order dated Feb. 2, 2006); Jarick, 05 Civ. 7626 (Order dated May 16, 2006); Concepcion, 05 Civ. 8501 (Order dated Oct. 23, 2006); and Abdell, 05 Civ. 8453 (Order dated Nov. 16, 2006). Accordingly, plaintiff's claims based on mental and emotional injury are dismissed.

2. Plaintiff has represented that she will produce the information sought by defendants in connection with the balance of her claims. Defendants' request for an order compelling production is therefore denied without prejudice to renewal in the event some further dispute arises.

SO ORDERED.



JAMES C. FRANCIS IV
UNITED STATES MAGISTRATE JUDGE

Dated: New York, New York
November 17, 2006

Copies mailed this date:

James I. Meyerson, Esq.
396 Broadway - Suite # 601
New York, New York 10013

James Mirro, Esq.
Special Assistant Corporation Counsel
100 Church Street
New York, New York 10007